

REMARKS

- (1) Claims 1-30 are pending in this application.
- (2) Claims 1, 11 and 21 are independent.
- (3) Claims 1, 2, 11, 18, 21, 22 and 28 are amended hereby.
- (4) The Drawings, Specification and Claims have been amended hereinabove.
- (5) The applicant respectfully thanks the Examiner for agreeing to consider the Information Disclosure Statement (IDS) submitted on February 13, 2008; and, further, the applicant respectfully thanks the Examiner for withdrawing the objections to the Specification in light of the Amendments filed on November 30, 2007.
- (6) The applicant respectfully proposes that, based on the proposed Amendments to the Drawings submitted herewith, the Specification, and the Claims; together with the Remarks contained hereinbelow, this application is in condition for allowance; and, notice to that effect is earnestly solicited hereby.

Rejection under 35 USC §112

- (1) The Examiner has rejected claim 12 under 35 USC 112, first paragraph for failing to comply with the written description requirement in that at claim 12, line 2, the subject matter of enabling the clothing to transmit the URL is not disclosed. Further, the Examiner has rejected the claim for failing to comply with the enablement requirement.

The applicant respectfully traverses the rejection of the Examiner and refers the Examiner to page 23 of the Specification, in the 2nd paragraph, where it states that: "The present invention can be used in clothing so that a person can act as a "Human IconTM". In order to more clearly describe this embodiment, the applicant has proposed hereinabove, an amendment to the drawings to add new Fig. 7 and an amendment to the Specification at page 23, 2nd paragraph.

Based on the reference cited above, together with the clarifying amendments, the applicant believes that they have overcome the Examiner's rejection of claim 12 under 35 USC 112, first paragraph.

(2) The Examiner has rejected claims 1, 2, 4, 11, 12, 14, 21, 22 and 24 under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, to wit:

(a) In regards to claims 1, 11 and 21, the claim states "... a respective hand-held transceiver to receive the information transmitted by the target ...". The Examiner has indicated that it is not clear as to how the URL is received and who/what sent the URL.

The applicant respectfully calls the Examiner's attention, to the Specification at page 11, 2nd paragraph which describes the components of the target. These components include elements known in the art of passive and non-passive transmission. Further, in the last two lines of each cited claim, the applicant calls the Examiner's attention to the recitation that: "... the URL is transmitted by the target". The target is defined in the Spec in several instances (Specification at: page 11, 2nd paragraph; page 11, 3rd paragraph; in the Drawings at Fig. 1).

The applicant respectfully submits that they have traversed this rejection by the Examiner in accordance with the above.

(b) In regards to claim 2, the Examiner has rejected the claim due to lack of antecedent basis for "the information display" and the "user's home computer". Additionally, the Examiner has questioned the ability of the air mouse to carry the URL.

The applicant has made amendment to claims 1 and 2 to more distinctly claim the subject matter. Therefore, the applicant respectfully submits that they have overcome the rejection of the Examiner.

(c) In regards to claims 12 and 22, the Examiner has rejected the claims due to lack of antecedent basis for "the information display".

The applicant has made amendment to claims 12 and 22 to more distinctly claim the subject matter. Therefore, the applicant respectfully submits that they have overcome the rejection of the Examiner.

(d) In regards to claims 4, 14 and 24, the Examiner has rejected the claims because the use of the description "substantially constantly" is a relative term which renders the claim indefinite.

In rejecting the claims, the Examiner has indicated that when grouping both words together, "according to their definitions, it is unclear as to if the application is eluding to the fact that the URL is always available or if it is only available when needed to fill a request. The

Examiner goes on to list the definitions for “substantially” (ample to satisfy and nourish; considerable in quantity) and “constantly” (continually occurring or recurring).

The applicant respectfully submits that the Examiner has, in part, answered his own question. If “constantly” is continually occurring and “substantially” is considerable in quantity, then the definition of the combination is of a constant state for a considerable amount of time. This definition would allow for a constant transmission of the URL, but with allowance for phase interruptions, timing fluctuations, flicker, and the like.

Based on the above, the applicant respectfully submits that they have traversed the rejection of the Examiner under 35 USC 112, second paragraph as being indefinite.

Rejection under 35 USC §103

(1) The Examiner has rejected claims 1, 5, 7, 10-13, 16, 17, 20-23, 26, 27 and 30 under 35 USC 103(a) as being unpatentable over U.S. Patent Pub. No. 2002/007896 issued to Liu et al (hereinafter referred to as *Liu*) in view of U.S. Patent No. 6,385,591 issued to Mankoff (hereinafter referred to as *Mankoff*).

In rejecting claims 1 and 21 of the applicant’s present claimed invention as being unpatentable over *Liu* in view of *Mankoff*, the Examiner has stated in part that:

Liu et al do [sic] not teach a storing transmitting or selectively activating a URL sent by a target. In the same field of endeavor Mankoff’s teach [sic] it is obvious to downloading/sending URLs to a hand-held transceiver by downloading a coupon from a client (target) to a PDA (hand-held transceiver), that includes contact information associated with the coupon provider (e.g. address, web site URL, map and e-mail information) (Col. 3 lines 55-62, Col. 4 lines 18-20, 23-25). Furthermore, the URL can be selected without being in contact with the target (Col. 4 lines 25-28, 35-36).

The applicant respectfully submits that *Mankoff* is not in the same field of endeavor as the applicant’s claimed invention. In *Mankoff*, the user is starting off in the very web site that the information is downloaded from. Thus, there is no selective process in *Mankoff*. The download is to the PDA and must reside in the PDA until it is synched with another computer. There are no provisions in *Mankoff* for transmitting a URL in any mode other than in the synched mode. Indeed, to redeem a coupon, the user must synch the PDA to the host and then download from

the host so that the coupon can be subsequently stored or printed. (*Mankoff* at col. 4, lines 18-25) Further, there is no teaching in *Mankoff* that the URL is of any value to the underlying invention. *Mankoff* neither teaches nor suggests that the use of the URL is desirable.

The Examiner has stated that *Liu* does “not teach a storing, transmitting, or selectively activating a URL sent by a target.” The applicant agrees with the Examiner in this regard; however, it is readily apparent that *Mankoff* does not supply the teaching necessary to reject the applicant’s claims 1 and 21 either. *Liu* and *Mankoff* in combination do not teach nor suggest how the transceiver might receive the information transmitted by the target and then selectively activate the information independent of the target.

(2) In rejecting claim 12 (at Examiner’s paragraph 36), the Examiner has stated that:

In regards to claim 12 *Liu et al* discloses, wherein the information display is a clothing display and the clothing is enabled to transmit the URL. ... Therefore it is obvious that the display displays clothing advertisement since advertising clothing on billboards are known in the art.

The applicant does agree with the Examiner that a display displaying a clothing advertisement is known in the art; however, the applicant respectfully submits that the Examiner has mis-read the claim. The claim refers to actual clothing serving as the display platform and is not directed to an advertisement other than what might be represented on the clothing.

The applicant respectfully submits that they have traversed the rejection of the Examiner and that claim 12 is thus allowable.

(3) The Examiner has rejected claim 3 under 35 USC 103(a) as being unpatentable over *Liu*, in view of *Mankoff*, in view of US Pat. Pub. No. 2002/0047868 to Miyazawa (hereinafter referred to as *Miyazawa*) as applied to claim 2 above, and further in view of US Patent No. 7,237,252 issued to Billmaier (hereinafter referred to as *Billmaier*).

In rejecting claim 3, the Examiner has stated that *Billmaier* teaches “the ability to purchase products that are shown on television either through a schedule TV show or commercial, by clicking on an icon.”

The applicant respectfully submits that for the reasons advanced hereinabove, with respect to *Mankoff*, there is no motivation to combine the teachings of *Mankoff* with those of *Liu*,

Miyazawa and *Billmaier*; and, that without such motivation or suggestion than references should not be combined. Further, even if there were motivation to combine the teachings of the references cited by the Examiner, the result would not be the applicant's claimed invention. Additionally, *Billmaier* teaches that the data relevant to the purchase is stored at the display, not at the hand-held transceiver (*Billmaier* at col. 12, lines 39-52) as is the case with the applicant's claimed invention. In the present claimed invention, there is an interplay of the data necessary to complete a purchase. A buyer profile is in the hands of the buyer and the website data is in the hands of the advertiser.

(4) The Examiner has rejected claims 4, 9, 15, 19, 24 and 29 under 35 USC 103(a) as being unpatentable over *Liu*, in view of *Mankoff*, as applied to claims 1, 11 and 21 above and further in view of US Pat. Pub No. 2001/0051900 issued to Fisher et al. (hereinafter referred to as *Fisher*).

In making the rejection the Examiner states that *Fisher* teaches "an interactive advertising display that provides requested information to customers via a hand-held transceiver. Wherein the transmitter is an active transmitter, since it is continuously updated based on a set time by the server."

The applicant respectfully calls the Examiner's attention to the definition of an active transmitter in the applicant's claimed invention: "If transmitter 30 is an active transmitter, the information stored in memory 15 is substantially continually or constantly being transmitted, whereby an interested user merely chooses to accept the information being transmitted." Thus, utilizing the applicant's definition, the transmitter of *Fisher* is not an active transmitter. It is an intermittent transmitter at best, because there is a regular and recurring period when the transmitter is not transmitting. That being the case, and with no teaching nor suggestion by *Fisher* that the transceiver of *Fisher* supplies the energy to cause the transmitter to transmit, albeit intermittently, then there is the greater likelihood that potential target customers will miss the transmission altogether because they were not in proximity to the transmitter during its ten minute cycle (see *Fisher* at 0046).

Therefore, based on the Remarks hereinabove, there is no teaching nor suggestion to combine the teachings of *Fisher* with those of *Liu* and *Mankoff*; and if such combination were to be effected, the result would not be the applicant's claimed invention. Thus, the applicant respectfully submits that claims 4, 9, 15, 19, 24 and 29 are otherwise patentable.

(5) The Examiner has rejected claim 6 under 35 USC 103(a) as being unpatentable over *Liu*, in view of *Mankoff*, as applied to claim 1 above and further in view of IBM Technical Disclosure Bulletin *Cellular Phone with Auto Dialing* (hereinafter referred to as *IBM*).

In rejecting claim 6, the Examiner stated that: "In the same field of endeavor *IBM* teaches a cellular phone receiving a phone number and automatically dialing without user intervention."

The applicant respectfully submits that while *IBM* might teach automatically dialing without user intervention, there is no teaching nor suggestion in *IBM* that the dialing is the result of the data retrieved with the URL from the target. Thus, the applicant respectfully submits that the claim is otherwise patentable because there is no motivation to combine the references for the reasons stated above with respect to *IBM* and earlier herein with respect to *Mankoff*.

(6) For the reasons indicated herein above, the applicant respectfully submits that they have traversed the rejections of the Examiner with respect to the applicant's claimed invention as being unpatentable under 35 USC 103(a).


Conclusion

Applicant respectfully submits that claims 1-30 are allowable for at least the reasons noted hereinabove. A Notice of Allowance is therefore respectfully requested hereby.

The Commissioner is hereby authorized to charge any fees which may be necessary for the consideration of this communication, or any additional fees required during examination of this application, and to credit any overpayment to Deposit Account No. 10-0100 (Attorney Docket No. ELLIO.P0201).

Respectfully submitted,

November 24, 2008
Date



Andrew F. Young, Esq., Reg. No. 44,001
LACKENBACH SIEGEL, LLP
One Chase Road
Scarsdale, NY 10583
Tel: 9140723-4300
Fax: 914-723-4301

ATTACHMENTS

Attachment 1

Attachment 2

Attachment 3

Attachment 4

Attachment 5

